

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH

Commercial Complex(BDA)
Indiranagar
Bangalore - 560 038

Dated : 28 APR 1988

APPLICATION NO 298 /87(F)
W.P. NO.

Applicant

Indian National NGOs Association
of Army Electronics Inspection
To

Respondent

V/s

The Secretary, M/o Defence, New Delhi
& 4 Ore

1. Shri K. Ramanujam
Chairman
Indian National NGOs Association
of Army Electronics Inspection
C/o Controllerate of Inspection
Electronics (CIL)
JC Nagar Post
Bangalore - 560 006
2. Shri D. Lealekrishnan
Advocate
No. 28, Raja Snow Buildings
Seshadripuram
Bangalore - 560 020
3. The Secretary
Ministry of Defence
South Block
New Delhi - 110 011
4. The Director General of Inspection
Department of Defence Production
Ministry of Defence
DHQ PO
New Delhi - 110 011

5. The Controller
Controllerate of Inspection
Electronics (CIL)
JC Nagar PO
Bangalore - 560 006
6. The Controller
Controllerate of Inspection
Power Systems (CIP)
JC Nagar PO
Bangalore - 560 006
7. The Controller
Controllerate of Inspection Radar
(CIR)
JC Nagar PO
Bangalore - 560 006
8. Shri M.S. Padmarajaiah
Central Govt. Stng Counsel
High Court Building
Bangalore - 560 001

Subject : SENDING COPIES OF ORDER PASSED BY THE BENCH

Please find enclosed herewith the copy of ORDER/~~STAY~~/~~INTERIM ORDER~~
passed by this Tribunal in the above said application on 27-4-88.

Encl. : As above

DEPUTY REGISTRAR
(JUDICIAL)

Received two
Copies
29/4/88
K. Ramanujam

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH::BANGALORE

DATED THIS THE TWENTYSEVENTH DAY OF APRIL, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy .. Vice Chairman
Hon'ble Shri P. Srinivasan .. Member (A)

APPLICATION NO.298 OF 1987

Indian National NGOs Association
of Army Electronics Inspection
C/o. CIL, JC Nagar PO,
Bangalore - 6 represented by its
Chairman - K. RAMANUJAM
(Shri D. Leela Krishnan, Advocate)

.. Applicant

Vs.

Union of India, represented by
the Secretary, Ministry of Defence
and others.
(Shri M.S. Padmarajaiah, Advocate)

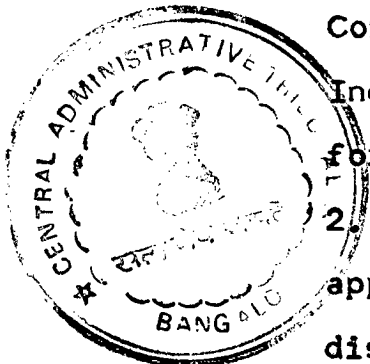
.. Respondent

This application having come up for hearing
today, Hon'ble Shri P. Srinivasan, Member (A), made the
following:

ORDER

The short question arising for determination
in this application is whether the applicant association,
namely, the Indian National NGOs Association of Army
Electronics Inspectorate, Bangalore, has been rightly
denied participation at various levels of the Joint
Consultative Machinery (JCM) set up by the Government of
India in respect of the Ministry of Defence and its lower
formations.

2. Before taking up the main controversy in this
application, it is necessary to determine whether the
dispute raised therein is a service matter falling within
the jurisdiction of this Tribunal. The respondents namely
the Union of India represented by the Secretary, Ministry



of Defence and its officials, have, in their reply, urged that participation in JCM is not a service matter over which this Tribunal has jurisdiction. On the other hand, the applicant Association has made written submissions signed by its Chairman, Shri K. Ramanujam, contending that it is a service matter within the jurisdiction of this Tribunal, concerning as it does, the conditions of service of the members of the applicant Association, who are all Government servants. Shri D. Leela Krishnan, learned counsel for the applicant Association and Shri M.S. Padmarajaiah, learned counsel for the respondents, have reiterated before us the respective positions of their clients outlined above.

3. In order to determine the competence of this Tribunal to deal with the dispute raised in the application, it is necessary to understand the role of the JCM in the day-to-day running of Government administration. A scheme known as the Joint Consultative Machinery and Compulsory Arbitration Scheme ^(the scheme for retort) was introduced by the Government of India in 1971 under the Directive Principles of State Policy set out in the Constitution. Under the scheme, joint councils of JCM were constituted at the National, Ministry, Department and Regional/Office levels, each such council consisting of an official side and a staff side. The applicant Association contends that under the said scheme, it is entitled to be represented on the second, third and fourth level councils on the staff side. The objects of the



JCM and compulsory arbitration scheme are set out in the Civilian Personnel Routine Order (CPRO) 25/71 issued by the Ministry of Defence, appearing at page 24 of the application. The objects were two-fold, namely (1) promoting harmonious relations and cooperation between the Government as employer and the general body of its employees in matters of common concern; and (2) increasing the efficiency of the public service. The "scope and functions" of the councils at different levels under the JCM were to include "all matters relating to conditions of service and work, welfare of the employees and improvement of efficiency and standards of work, provided, however, that (i) in regard to recruitment, promotion and discipline, consultation will be limited to matters of general principles and (ii) individual cases will not be considered". The machinery, namely, JCM, was meant to "supplement, and not replace, the facilities provided to employees to make individual representations, or to associations of employees to make representations on their respective constituent services, grades, etc."

4. Turning to the provisions of the Administrative Tribunals Act, 1985 ('the Act'), section 14 deals with the jurisdiction, powers and authority of the Central Administrative Tribunal and these, so far as relevant for the present application, cover the following matters:



P. S. - 12

(1) recruitment and matters concerning recruitment to All India Services or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence service being, in either case, a post filled by a civilian.

(2) all service matters concerning

(i) a member of an All India Service;

(ii) a person appointed to any civil service of the Union or to any Civil post under the Union;

(iii) a civilian appointed to any defence services or a post connected with defence. The said service matters should relate to the "service of such member, person or civilian, in connection with the affairs of the Union".

(3) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service in the Central Government having been deputed thereto by a State Government etc. The term "service matters" is defined in section 3(q) of the Act which, leaving out portions irrelevant for the present purpose, reads as follows:

"service matters", in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union.....as respects -

(i) remuneration (including allowances), person and other retirement benefits;

(ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;

(iii) leave of any kind;

(iv) disciplinary matters; or

(v) any other matter whatsoever";



Obviously, the scope of the JCM councils in so far as they relate to conditions of service and work, squarely fall under the definition of service matters and so do "recruitment, promotion and discipline" in regard to which consultations on general principles were to be held in the meetings of the councils. The JCM councils with which we are here concerned, were constituted in the Ministry of Defence and its attached departments and offices. Consultations were to be held in these councils regarding the conditions of service and work and general principles of recruitment, promotion and discipline of employees who are Government servants holding civil posts in the Union Government connected with defence. In fact, the scheme also includes compulsory arbitration where the management side and the staff side are not able to come to an agreement in matters relating to pay and allowances, weekly hours of work and leave of a class or grade. These are also clearly covered by the definition of service matters in section 3 (q). Participation of a group



P. S. [Signature]

of employees in different levels of JCM councils gives them an opportunity of getting disputes regarding their service conditions resolved either at the council meetings or through compulsory arbitration. Thus, participation in JCM is a valuable right given to Government employees for the purpose of getting their grievances and disputes relating to conditions of service resolved to their satisfaction and denial of such participation is clearly a service matter. It is true, individual grievances are not covered by the scope of the JCM councils but grievances of a class of employees affect each member of that class and therefore represent the sum total of the individual grievances of all the members of that class. Under section 19 of the Act, a person aggrieved by any order pertaining to a matter within the jurisdiction of the Tribunal may make an application to the Tribunal for redressal of this grievances. Under rule 4(5)(b) of the Central Administrative Tribunals (Procedure) Rules, 1987, the Tribunal may permit an association representing persons who share a common cause of action and have a common interest in the matter ^{to file an application} Thus a collective grievance of a large number of persons can be put forward on their behalf in a single application by



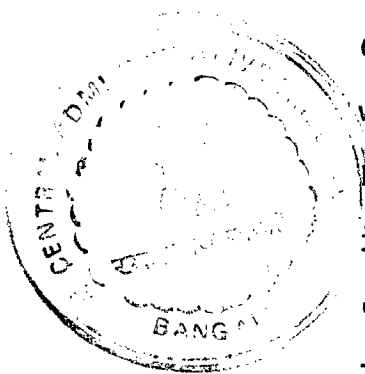
an association representing them. In view of this, we are satisfied that the present application filed by the ^{applicant} ~~application~~ Association airing the grievance of all its members arising out of the denial to the applicant Association of participation in JCM raises a dispute on a service matter which falls within the jurisdiction of this Tribunal.

5. Having thus disposed of the question of jurisdiction, the way is now clear to examine the controversy raised in the application. The applicant-association was brought into existence in March 1985 to represent certain categories of civilian employees working under the Controller of Inspection Electronics, Bangalore (Respondent-3), an establishment under the Directorate General of Inspection, Department of Defence Production, New Delhi (DGI) (Respondent-2) which itself constitutes a part of the Ministry of Defence (Respondent-1). The application narrates that Principal Foremen, Foremen, Assistant Foremen, Chargemen Grade I and Chargemen Grade II, in the establishment of R-3 were not allowed to become the members of the Workers Union known as CIL (CIP, CIR), Civilian Employees Union, to project their grievance on service conditions and that ^{that is} ~~that~~ was why they formed the applicant-association in 1965 to represent their grievances to the authorities. In 1981 the establishment of R-3 was trifurcated and two more establishments headed by R-4 and R-5 came into existence at Bangalore. It is stated that persons



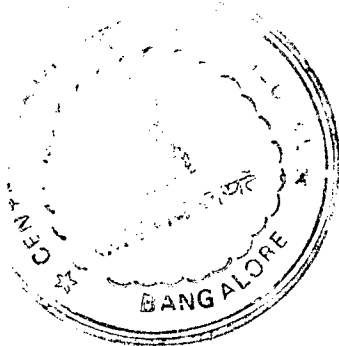
working in the aforementioned categories in the discipline of Electronics in different Inspectorates spread all over the country are members of the applicant-association. These Inspectorates, earlier under the exclusive control of R-3 have now been distributed for the purpose of administrative control between R-3, 4 and 5 all of whom work under R-2. The applicant association has at present 847 members on its strength of whom 425 are in Bangalore. Since the applicant-association represents all employees belonging to the specified categories all over India, it claims to have acquired all India status, a claim which has not been denied in the reply of the Respondents. In the reply of Respondents it is also not denied that the categories of employees to whom the applicant-association caters are not members of any other association and their sole representative to deal with the management is the applicant-association. Respondents have also not controverted the statement in para 6.10 of the application that the categories of employees whom the applicant-association represents constitute more than 33% of the strength of all employees working in Bangalore in the establishments of R-3, 4 and 5.

6. Soon after the applicant-association was formed in 1965 under its former name of CIL Non-gazetted Officers Association, it applied for recognition under the Central Civil Service (Recognition of Service Association) Rules, 1959. In response to this application, R-3, by letter dated 2.8.1986 (Annexure-A1) suggested deletion of a provision from the constitution



P. S. K.


of the applicant-association and went on to say "I am further directed to say that as old rules of 1959 for grant of recognition to service associations are no longer operative and new rules have not yet been finalised formal recognition cannot be granted at this stage". The letter, however, intimated that the Ministry of Defence had, as a special case, given to the applicant-association "the concession of correspondence and grant of interview with authorities concerned for redress of grievances represented by them". This position was reiterated in a letter dated 28.6.1973 issued by the Ministry of Defence (Annexure A-2) in general terms. That letter explained that since "the rules for grant of recognition to associations are no longer operative, pending finalisation of new rules on the subject, associations which fulfill the major features of erstwhile rules of recognition are ^{being} ~~been~~ granted the facilities of correspondence and interview". Associations which had already been granted the said facilities pending formal recognition "are entitled to the same facilities and concessions as are admissible to associations which are formally recognised." The applicant-association was undisputedly one such association. Following this letter, R-3 informed the applicant-association by letter dated 26.7.1984 (Annexure ~~A3~~) that it was "entitled to enjoy all facilities which are being enjoyed by the recognised service associations except participation in JCM". The matter of grant of



P. S. Rao

recognition to the applicant-association under the CCS (Recognition of Service Associations) Rules, 1959, was the subject of further correspondence between the applicant-association and R-3. By letter dated 14.8.1984 (Annexure-A3), R-3 informed the applicant-association that its request for grant of formal recognition had been examined in consultation with the Ministry of Defence and Home who had explained that the CCS (Recognition of Service Association) Rules, 1959 were being treated as inoperative as Rule 4 (b) of the CCS (Conduct) Rules, 1955, under which the former rules were made had been struck down by the Supreme Court. Therefore, "pending formalisation of fresh recognition rules" the letter went on to say, "Government are following the policy that Ministries/Departments may deal with the service association of their employees without insisting on formal recognition, if they fulfill the major features of the Central Civil Services (Recognition of Service Rules) Rules, 1959".

7. While the correspondence on the subject of recognition of the applicant-association was going on, JCM came into existence in 1971. The applicant association represented to the authorities that it should be allowed to participate in JCM by sending its representatives to the meetings of the Councils constituted at different levels. It appears that at one stage, R-3, by letter dated 28.11.1969 (this seems to be a mistake for 1977 because JCM came into existence only in 1971) appearing at Annexure-A6 to the application, called upon the applicant-association



to nominate two members on the staff side of the IV level Council of JCM and the applicant duly sent in its nominations in its reply dated 16.12.1967 (again probably a mistake for 1977). But this letter was not acted upon. We have already referred to letter dated 26.7.1984 written by R-3 to the applicant-association granting it all facilities enjoyed by recognised service associations except participation in JCM. In fact, even in an earlier letter dated 12.10.1982, R-3 informed the applicant-association that it could not be given representation in the level IV council of JCM. The applicant-association did not give up its efforts in this regard and continued correspondence but with no success. Finally in a letter dated 23.6.1986 (Annexure-A16) the DGI (R-2) rang down the curtain on the subject by stating that it had already been decided that the applicant-association would not be eligible to nominate members for JCM or to contest election for representation to workers representative bodies and this was conveyed to the applicant-association by letter dated 4.7.1986 by R-3. It is this letter which the applicant-association is challenging in this application.

In their reply to the application, the Respondents, as already indicated, have not disputed the claim of the applicant association that it was the exclusive representative of certain categories of employees in the Electronics discipline working under R-3, 4 and 5 all over the country viz., Principal



-12-

Foreman, Foreman, Assistant Foreman, Chargeman Grade I and Chargeman Grade II who are not members of any other trade union or association and who have, therefore, no other means of ventilating their collective grievances to the authorities. The main ground on which the Respondents have resisted the claim of the applicant-association for participation in JCM councils is that the applicant-association is not a recognised association and so cannot claim the right of participation in JCM at any level. The applicant-association had only been granted facilities of correspondence and interview and respondents were considering whether even these facilities should be withdrawn for violation of recognition rules. Government had decided against ^{granting} governing fresh recognition of any association under the Defence Ministry.

9. Shri D. Leela Krishnan submitted that JCM is meant for participation of Government employees at all levels and the members of the applicant association are government employees who have a right to participate in it. The Respondents could not urge that the applicant-association is not entitled to participate in JCM because it is not a recognised association. From 1965, the applicant-association has been clamouring for recognition. But the Respondents had taken no decision thereon even though the applicant-association were given certain facilities which were available to recognised associations. It was not the fault of the applicant association that the Respondents took no action to grant recognition, even though according to the applicant-association, it fulfils all the



conditions prescribed in the CCS (Recognition of Service Association) Rules, 1959. The respondents should either take a decision on the application of the applicant-association for recognition or treat it as a recognised association and grant it representation in the Councils of JCM.

10. Shri M.S. Padmarajaiah, for the respondents submitted that unless an association is a recognised association it cannot be given representation in JCM. The CCS (Recognition of Service Association) Rules 1959 had been framed in pursuance of Rule 4b of the CCS (Conduct) Rules, 1955. In O.K. Ghosh v. E.X. Joseph AIR 1963 SC 812 Supreme Court had, inter alia, struck down Rule 4b of the CCS (Conduct) Rules, 1955. In view of this, Government could not operate CCS (Recognition of Service Association) Rules, 1959 and grant recognition to any association thereunder. No fresh rules had been framed for grant of recognition and, therefore, Government was not in a position to grant recognition to any association including the applicant-association even if it fulfilled all the requirements of the existing rules. Till new rules are framed and issued, the Respondents could not grant any recognition. The applicant-association was, therefore, not eligible for participating in the JCM Councils at any level.

We have given the most anxious thought to the question. As we have indicated above, the only contention of the Respondents urged before us while resisting the claim of the applicant-association is that the applicant-association is not a recognised association and not being one is not eligible for



representation in JCM. In this connection we must agree with counsel for the applicant-association that it was no fault of the applicant that the Respondents have taken no decision about recognition. It is upto the Respondents to take a decision on the question of recognition of the applicant-association which has been pending for over 20 years and then to determine the question of granting representation to the applicant association in the various JCM Councils. We do not say that the applicant-association should necessarily be recognised because that depends on its fulfilling requirements ~~for recognition~~ therefor. The CCS (Recognition of Service Association) Rules, 1959, have not in terms been struck down by the Supreme Court, but we agree that Rule 4b of CCS (Conduct) Rules, 1965, having been struck down by the Supreme Court, CCS (Recognition of Service Association) Rule, 1959 which were framed under the said rule cannot be operated. But that does not mean that no fresh rules should have been framed all these years, particularly because recognition of an association is set down as a pre-condition for permitting it to participate in the JCM. Unless recognition is removed as a criterion ^{of} for participation in the JCM, the Respondents should take a decision without further delay whether to recognise the applicant-association or not and then process its case for representation in the Councils at different levels of JCM.



12. We should not also be understood as saying that recognition means an automatic right to the applicant-association to participate in the JCM Councils, because that in turn depends on requirements

laid down in the scheme. Since the only issue argued before us was whether participation can be denied on the ground that the applicant-association is not a recognised association, we have confined our attention to that aspect of the matter. To make matters abundantly clear we would repeat that in the first place it is for the Respondents to consider and decide whether the applicant association is fit for recognition applying such criteria as they deem fit for the purpose but all that we say that this should be done quickly as the matter has been pending for long. If after such consideration the Respondents decide to grant recognition to the applicant-association it will again be upto the Respondents to consider the case of the applicant-association for participation in JCM in the light of the terms and conditions laid down in the scheme: We have not gone into these terms and conditions because they were not canvassed before us by either side.

13. In the result we pass the following orders:

1. The Respondents will consider the case of the applicant-association for recognition, if need be by framing fresh rules and convey their decision on the matter to the applicant-association within six months of the date of receipt of this order.
2. If the Respondents decide to grant recognition to the applicant-association they will consider the case for its participation in the JCM Councils under the terms and conditions in the scheme laid down for the purpose and convey their decision thereon to the applicant-association



within a further period of
six months.

14. Needless to say that if the applicant-
association is aggrieved with the decision to be
rendered by the Respondents in pursuance of our
order at (1) or (2) above, they will be free to
approach this Tribunal if they so desire.

15. The application is allowed in part.
Parties to bear their own costs.



Sd/-
VICE CHAIRMAN
27/4/88

Sd/-
MEMBER (A)

TRUE COPY

28/4/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE

CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH
.....

Commercial Complex(BDA),
II Floor, Indiranagar,
Bangalore- 560 038.

Dated: 28 APR 1988

To

1. Shri. Sanjeev Malhotra,
All India Services Law Journal,
Hakikat Nagar, Mal Road,
New Delhi- 110 009.
2. Administrative Tribunal Reporter,
Post Box No. 1518,
Delhi- 110 006.
3. The Editor,
Administrative Tribunal Cases,
C/o. Eastern Book Co.,
34, Lal Bagh,
Lucknow- 226 001.
4. The Editor,
Administrative Tribunal Law Times,
5335, Jawahar Nagar,
(Kolhapur Road),
Delhi- 110 007.
5. M/s. All India Reporter,
Congressnagar,
Nagpur.

Sir,

I am directed to forward herewith a copy of the order mentioned order passed by a Bench of this Tribunal comprising of Hon'ble Mr. Justice K. S. Puttaswamy Vice-Chairman/ Member(J) and Hon'ble Mr. P. Srinivasan Member(A) with a request for publication of the order in the Journals.

Order dated 27-4-88 passed in A.Nos. 298/87(-)

Yours faithfully,

(B. V. VENKATA REDDY)
DEPUTY REGISTRAR(J).

for

gc


9/2/88
K. S. Puttaswamy
2/5/88

Copy with enclosure forwarded for information to:

1. The Registrar, Central Administrative Tribunal, Principal Bench, Faridkot House, Copernicus Marg, New Delhi- 110 001.
2. The Registrar, Central Administrative Tribunal, Tamil Nadu Text Book Society Building, D.P.I. Compunds, Nungambakkam, Madras- 600 006.
3. The Registrar, Central Administrative Tribunal, C.G.O. Complex, 234/4, AJC Bose Road, Nizam Palace, Calcutta- 700 020.
4. The Registrar, Central Administrative Tribunal, CGO Complex (CBD), 1st Floor, Near Kankon Bhawan, New Bombay- 400 614.
5. The Registrar, Central Administrative Tribunal, 23-A, Post Bag No. 013, Thorn Hill Road, Allahabad- 211 001.
6. The Registrar, Central Administrative Tribunal, S.C.O. 102/103, Sector 34-A, Chandigarh.
7. The Registrar, Central Administrative Tribunal, Rajgarh Road, Off Shilong Road, Guwahati- 781 005.
8. The Registrar, Central Administrative Tribunal, Kandamkulathil Towers, 5th & 6th Floor, Opp. Maharaja College, M.G. Road, Ernakulam, Cochin- 682001.
9. The Registrar, Central Administrative Tribunal, CARAVS Complex, 15 Civil Lines, Jabalpur (MP).
10. The Registrar, Central Administrative Tribunal, 88-A B.M. Enterprises, Shri Krishna Nagar, Patna-1.
11. The Registrar, Central Administrative Tribunal, C/o. Rajasthan High Court, Jodhpur (Rajasthan).
12. The Registrar, Central Administrative Tribunal, New Insurance Building Complex, 6th Floor, Tilak Road, Hyderabad.
13. The Registrar, Central Administrative Tribunal, Navrangpura, Near Sardar Patel Colony, Usmanapura, Ahmedabad.
14. The Registrar, Central Administrative Tribunal, Bolamundai, Cuttack- 753001.

Copy with enclosure also to:

1. Court Officer (Court I)
2. Court Officer (Court II)


(B.V. VENKATA REDDY)
DEPUTY REGISTRAR (J).

9c

BEFORE THE CENTRAL ADMINISTRATIVE TRIBUNAL
BANGALORE BENCH::BANGALORE

DATED THIS THE TWENTYSEVENTH DAY OF APRIL, 1988

Present: Hon'ble Shri Justice K.S. Puttaswamy .. Vice Chairman
Hon'ble Shri P. Srinivasan .. Member (A)

APPLICATION NO.298 OF 1987

Indian National NGOs Association
of Army Electronics Inspection
C/o. CIL, JC Nagar PO,
Bangalore - 6 represented by its
Chairman - K. RAMANUJAM
(Shri D. Leela Krishnan, Advocate)

.. Applicant

Vs.

Union of India, represented by
the Secretary, Ministry of Defence
and others.
(Shri M.S. Padmarajaiah, Advocate)

.. Respondent

This application having come up for hearing
today, Hon'ble Shri P. Srinivasan, Member (A), made the
following:

O R D E R

The short question arising for determination
in this application is whether the applicant association,
namely, the Indian National NGOs Association of Army
Electronics Inspectorate, Bangalore, has been rightly
denied participation at various levels of the Joint
Consultative Machinery (JCM) set up by the Government of
India in respect of the Ministry of Defence and its lower
formations.

2. Before taking up the main controversy in this
application, it is necessary to determine whether the
dispute raised therein is a service matter falling within
the jurisdiction of this Tribunal. The respondents namely
the Union of India represented by the Secretary, Ministry

of Defence and its officials, have, in their reply, urged that participation in JCM is not a service matter over which this Tribunal has jurisdiction. On the other hand, the applicant Association has made written submissions signed by its Chairman, Shri K. Ramanujam, contending that ~~it~~ is a service matter within the jurisdiction of this Tribunal, concerning as it does, the conditions of service of the members of the applicant Association, who are all Government servants. Shri D. Leela Krishnan, learned counsel for the applicant Association and Shri M.S. Padmarajaiah, learned counsel for the respondents, have reiterated before us the respective positions of their clients outlined above.

3. In order to determine the competence of this Tribunal to deal with the dispute raised in the application, it is necessary to understand the role of the JCM in the day-to-day running of Government administration. A scheme known as the Joint Consultative Machinery and Compulsory Arbitration Scheme ^(the scheme for retort) was introduced by the Government of India in 1971 under the Directive Principles of State Policy set out in the Constitution. Under the scheme, joint councils of JCM were constituted at the National, Ministry, Department and Regional/Office levels, each such council consisting of an official side and a staff side. The applicant Association contends that under the said scheme, it is entitled to be represented on the second, third and fourth level councils on the staff side. The objects of the

P. S. - 12

JCM and compulsory arbitration scheme are set out in the Civilian Personnel Routine Order (CPRO) 25/71 issued by the Ministry of Defence, appearing at page 24 of the application. The objects were two-fold, namely (1) promoting harmonious relations and cooperation between the Government as employer and the general body of its employees in matters of common concern; and (2) increasing the efficiency of the public service. The "scope and functions" of the councils at different levels under the JCM were to include "all matters relating to conditions of service and work, welfare of the employees and improvement of efficiency and standards of work, provided, however, that (i) in regard to recruitment, promotion and discipline, consultation will be limited to matters of general principles and (ii) individual cases will not be considered". The machinery, namely, JCM, was meant to "supplement, and not replace, the facilities provided to employees to make individual representations, or to associations of employees to make representations on their respective constituent services, grades, etc."

4. Turning to the provisions of the Administrative Tribunals Act, 1985 ('the Act'), section 14 deals with the jurisdiction, powers and authority of the Central Administrative Tribunal and these, so far as relevant for the present application, cover the following matters:

P. S. - 42

(1) recruitment and matters concerning recruitment to All India Services or to any civil service of the Union or a civil post under the Union or to a post connected with defence or in the defence service being, in either case, a post filled by a civilian.

(2) all service matters concerning

- (i) a member of an All India Service;
- (ii) a person appointed to any civil service of the Union or to any Civil post under the Union;
- (iii) a civilian appointed to any defence services or a post connected with defence. The said service matters should relate to the "service of such member, person or civilian, in connection with the affairs of the Union".

(3) all service matters pertaining to service in connection with the affairs of the Union concerning a person appointed to any service in the Central Government having been deputed thereto by a State Government etc. The term "service matters" is defined in section 3(q) of the Act which, leaving out portions irrelevant for the present purpose, reads as follows:

"service matters", in relation to a person, means all matters relating to the conditions of his service in connection with the affairs of the Union.....as respects -

- (i) remuneration (including allowances), person and other retirement benefits;
 - (ii) tenure including confirmation, seniority, promotion, reversion, premature retirement and superannuation;
 - (iii) leave of any kind;
 - (iv) disciplinary matters; or
 - (v) any other matter whatsoever";
- 7 / 1 - 12

Obviously, the scope of the JCM councils in so far as they relate to conditions of service and work, squarely fall under the definition of service matters and so do "recruitment, promotion and discipline" in regard to which consultations on general principles were to be held in the meetings of the councils. The JCM councils with which we are here concerned, were constituted in the Ministry of Defence and its attached departments and offices. Consultations were to be held in these councils regarding the conditions of service and work and general principles of recruitment, promotion and discipline of employees who are Government servants holding civil posts in the Union Government connected with defence. In fact, the scheme also includes compulsory arbitration where the management side and the staff side are not able to come to an agreement in matters relating to pay and allowances, weekly hours of work and leave of a class or grade. These are also clearly covered by the definition of service matters in section 3 (q). Participation of a group

P. S. K.

of employees in different levels of JCM councils gives them an opportunity of getting disputes regarding their service conditions resolved either at the council meetings or through compulsory arbitration. Thus, participation in JCM is a valuable right given to Government employees for the purpose of getting their grievances and disputes relating to conditions of service resolved to their satisfaction and denial of such participation is clearly a service matter. It is true, individual grievances are not covered by the scope of the JCM councils but grievances of a class of employees affect each member of that class and therefore represent the sum total of the individual grievances of all the members of that class. Under section 19 of the Act, a person aggrieved by any order pertaining to a matter within the jurisdiction of the Tribunal may make an application to the Tribunal for redressal of this grievances. Under rule 4(5)(b) of the Central Administrative Tribunals (Procedure) Rules, 1987, the Tribunal may permit an association representing persons who share a common cause of action and have a common interest in the matter ^{to file an application} Thus a collective grievance of a large number of persons can be put forward on their behalf in a single application by

D L 4.2

an association representing them. In view of this, we are satisfied that the present application filed by the ^{applicant} ~~application~~ Association airing the grievance of all its members arising out of the denial to the applicant Association of participation in JCM raises a dispute on a service matter which falls within the jurisdiction of this Tribunal.

5. Having thus disposed of the question of jurisdiction, the way is now clear to examine the controversy raised in the application. The applicant-association was brought into existence in March 1985 to represent certain categories of civilian employees working under the Controller of Inspection Electronics, Bangalore (Respondent-3), an establishment under the Directorate General of Inspection, Department of Defence Production, New Delhi (DGI) (Respondent-2) which itself constitutes a part of the Ministry of Defence (Respondent-1). The application narrates that Principal Foremen, Foremen, Assistant Foremen, Chargemen Grade I and Chargemen Grade II, in the establishment of R-3 were not allowed to become the members of the Workers Union known as CIL (CIP, CIR), Civilian Employees Union, to project their grievance on service conditions and that ^{that} ~~was~~ why they formed the applicant-association in 1965 to represent their grievances to the authorities. In 1981 the establishment of R-3 was trifurcated and two more establishments headed by R-4 and R-5 came into existence at Bangalore. It is stated that persons

working in the aforementioned categories in the discipline of Electronics in different Inspectorates spread all over the country are members of the applicant-association. These Inspectorates, earlier under the exclusive control of R-3 have now been distributed for the purpose of administrative control between R-3, 4 and 5 all of whom work under R-2. The applicant association has at present 847 members on its strength of whom 425 are in Bangalore. Since the applicant-association represents all employees belonging to the specified categories all over India, it claims to have acquired all India status, a claim which has not been denied in the reply of the Respondents. In the reply of Respondents it is also not denied that the categories of employees to whom the applicant-association caters are not members of any other association and their sole representative to deal with the management is the applicant-association. Respondents have also not controverted the statement in para 6.10 of the application that the categories of employees whom the applicant-association represents constitute more than 33% of the strength of all employees working in Bangalore in the establishments of R-3, 4 and 5.

6. Soon after the applicant-association was formed in 1965 under its former name of CIL Non-gazetted Officers Association, it applied for recognition under the Central Civil Service (Recognition of Service Association) Rules, 1959. In response to this application, R-3, by letter dated 2.8.1986 (Annexure- suggested deletion of a provision from the constitution

P. S. K.

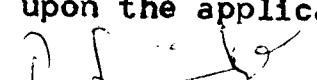
2/-

of the applicant-association and went on to say "I am further directed to say that as old rules of 1959 for grant of recognition to service associations are no longer operative and new rules have not yet been finalised formal recognition cannot be granted at this stage". The letter, however, intimated that the Ministry of Defence had, as a special case, given to the applicant-association "the concession of correspondence and grant of interview with authorities concerned for redress of grievances represented by them". This position was reiterated in a letter dated 28.6.1973 issued by the Ministry of Defence (Annexure A-2) in general terms. That letter explained that since "the rules for grant of recognition to associations are no longer operative, pending finalisation of new rules on the subject, associations which fulfill the major features of erstwhile rules of recognition are ^{being} ~~been~~ granted the facilities of correspondence and interview". Associations which had already been granted the said facilities pending formal recognition "are entitled to the same facilities and concessions as are admissible to associations which are formally recognised." The applicant-association was undisputedly one such association. Following this letter, ~~B-3~~ informed the applicant-association by letter dated 26.7.1984 (~~Annexure A3~~) that it was "entitled to enjoy all facilities which are being enjoyed by the recognised service associations except participation in JCM". The matter of grant of

P. S. - 10/-

recognition to the applicant-association under the CCS (Recognition of Service Associations) Rules, 1959, was the subject of further correspondence between the applicant-association and R-3. By letter dated 14.8.1984 (Annexure-A3), R-3 informed the applicant-association that its request for grant of formal recognition had been examined in consultation with the Ministry of Defence and Home who had explained that the CCS (Recognition of Service Association) Rules, 1959 were being treated as inoperative as Rule 4 (b) of the CCS (Conduct) Rules, 1955, under which the former rules were made had been struck down by the Supreme Court. Therefore, "pending formalisation of fresh recognition rules" the letter went on to say, "Government are following the policy that Ministries/Departments may deal with the service association of their employees without insisting on formal recognition, if they fulfill the major features of the Central Civil Services (Recognition of Service Rules) Rules, 1959".

7. While the correspondence on the subject of recognition of the applicant-association was going on, JCM came into existence in 1971. The applicant association represented to the authorities that it should be allowed to participate in JCM by sending its representatives to the meetings of the Councils constituted at different levels. It appears that at one stage, R-3, by letter dated 28.11.1969 (this seems to be a mistake for 1977 because JCM came into existence only in 1971) appearing at Annexure-A6 to the application, called upon the applicant-association



to nominate two members on the staff side of the IV level Council of JCM and the applicant duly sent in its nominations in its reply dated 16.12.1967 (again probably a mistake for 1977). But this letter was not acted upon. We have already referred to letter dated 26.7.1984 written by R-3 to the applicant-association granting it all facilities enjoyed by recognised service associations except participation in JCM. In fact, even in an earlier letter dated 12.10.1982, R-3 informed the applicant-association that it could not be given representation in the level IV council of JCM. The applicant-association did not give up its efforts in this regard and continued correspondence but with no success. Finally in a letter dated 23.6.1986 (Annexure-A16) the DGI (R-2) rang down the curtain on the subject by stating that it had already been decided that the applicant-association would not be eligible to nominate members for JCM or to contest election for representation to workers representative bodies and this was conveyed to the applicant-association by letter dated 4.7.1986 by R-3. It is this letter which the applicant-association is challenging in this application.

8. In their reply to the application, the Respondents, as already indicated, have not disputed the claim of the applicant association that it was the exclusive representative of certain categories of employees in the Electronics discipline working under R-3, 4 and 5 all over the country viz., Principal

D I - k y

-12-

Foreman, Foreman, Assistant Foreman, Chargeman Grade I and Chargeman Grade II who are not members of any other trade union or association and who have, therefore, no other means of ventilating their collective grievances to the authorities. The main ground on which the Respondents have resisted the claim of the applicant-association for participation in JCM councils is that the applicant-association is not a recognised association and so cannot claim the right of participation in JCM at any level. The applicant-association had only been granted facilities of correspondence and interview and respondents were considering whether even these facilities should be withdrawn for violation of recognition rules. Government had decided against ^{granting} ~~governing~~ fresh recognition of any association under the Defence Ministry.

9. Shri D. Leela Krishnan submitted that JCM is meant for participation of Government employees at all levels and the members of the applicant association are government employees who have a right to participate in it. The Respondents could not urge that the applicant-association is not entitled to participate in JCM because it is not a recognised association. From 1965, the applicant-association has been clamouring for recognition. But the Respondents had taken no decision thereon even though the applicant-association were given certain facilities which were available to recognised associations. It was not the fault of the applicant association that the Respondents took no action to grant recognition, even though according to the applicant-association, it fulfils all the

conditions prescribed in the CCS (Recognition of Service Association) Rules, 1959. The respondents should either take a decision on the application of the applicant-association for recognition or treat it as a recognised association and grant it representation in the Councils of JCM.

10. Shri M.S. Padmarajaiah, for the respondents submitted that unless an association is a recognised association it cannot be given representation in JCM. The CCS (Recognition of Service Association) Rules 1959 had been framed in pursuance of Rule 4b of the CCS (Conduct) Rules, 1955. In O.K. Ghosh v. E.X. Joseph AIR 1963 SC 812 Supreme Court had, inter alia, struck down Rule 4b of the CCS (Conduct) Rules, 1955. In view of this, Government could not operate CCS (Recognition of Service Association) Rules, 1959 and grant recognition to any association thereunder. No fresh rules had been framed for grant of recognition and, therefore, Government was not in a position to grant recognition to any association including the applicant-association even if it fulfilled all the requirements of the existing rules. Till new rules are framed and issued, the Respondents could not grant any recognition. The applicant-association was, therefore, not eligible for participating in the JCM Councils at any level.

11. We have given the most anxious thought to the question. As we have indicated above, the only contention of the Respondents urged before us while resisting the claim of the applicant-association is that the applicant-association is not a recognised association and not being one is not eligible for

D S - - 65

representation in JCM. In this connection we must agree with counsel for the applicant-association that it was no fault of the applicant that the Respondents have taken no decision about recognition. It is upto the Respondents to take a decision on the question of recognition of the applicant-association which has been pending for over 20 years and then to determine the question of granting representation to the applicant association in the various JCM Councils. We do not say that the applicant-association should necessarily be recognised because that depends on its fulfilling requirements ~~for recognition~~ therefor. The CCS (Recognition of Service Association) Rules, 1959, have not in terms been struck down by the Supreme Court, but we agree that Rule 4b of CCS (Conduct) Rules, 1965, having been struck down by the Supreme Court, CCS (Recognition of Service Association) Rule, 1959 which were framed under the said rule cannot be operated. But that does not mean that no fresh rules should have been framed all these years, particularly because recognition of an association is set down as a pre-condition for permitting it to participate in the JCM. Unless recognition is removed as a criterion ~~for~~ for participation in the JCM, the Respondents should take a decision without further delay whether to recognise the applicant-association or not and then process its case for representation in the Councils at different levels of JCM.

12. We should not also be understood as saying that recognition means an automatic right to the applicant-association to participate in the JCM Councils, because that in turn depends on requirements

-15-

laid down in the scheme. Since the only issue argued before us was whether participation can be denied on the ground that the applicant-association is not a recognised association, we have confined our attention to that aspect of the matter. To make matters abundantly clear we would repeat that in the first place it is for the Respondents to consider and decide whether the applicant association is fit for recognition applying such criteria as they deem fit for the purpose but all that we say that this should be done quickly as the matter has been pending for long. If after such consideration the Respondents decide to grant recognition to the applicant-association it will again be upto the Respondents to consider the case of the applicant-association for participation in JCM in the light of the terms and conditions laid down in the scheme: We have not gone into these terms and conditions because they were not canvassed before us by either side.

13. In the result we pass the following orders:

1. The Respondents will consider the case of the applicant-association for recognition, if need be by framing fresh rules and convey their decision on the matter to the applicant-association within six months of the date of receipt of this order.
2. If the Respondents decide to grant recognition to the applicant-association they will consider the case for its participation in the JCM Councils under the terms and conditions in the scheme laid down for the purpose and convey their decision thereon to the applicant-association

within a further period of
six months.

14. Needless to say that if the applicant-
association is aggrieved with the decision to be
rendered by the Respondents in pursuance of our
order at (1) or (2) above, they will be free to
approach this Tribunal if they so desire.

15. The application is allowed in part.
Parties to bear their own costs.

Sd/-
VICE CHAIRMAN
27/4/88

Sd/-
MEMBER (A)

mr.

TRUE COPY

P. Thy 28/4/88
SECTION OFFICER
CENTRAL ADMINISTRATIVE TRIBUNAL
ADDITIONAL BENCH
BANGALORE